REMARKS

Summary of Office Action

As an initial matter, Applicants note with appreciation that the Examiner has withdrawn all claim rejections set forth in the previous Office Action.

Claims 30-32 and 39 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Murayama et al., U.S. Patent No. 5,633,070 (hereafter "MURAYAMA") in view of McFarren, U.S. Patent No. 3,575,764 (hereafter "MCFARREN") and in view of Trounstine et al., U.S. Patent No. 3,484,835 (hereafter "TROUNSTINE").

Claims 33, 34 and 36 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of TROUNSTINE and further in view of Haffner et al., U.S. Patent No. 6,045,900 (hereafter "HAFFNER").

Claims 35 and 38 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of TROUNSTINE and further in view of Morman et al., U.S. Patent No. 5,932,497 (hereafter "MORMAN").

Claims 40, 41, 43 and 44 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN.

Claims 42, 45 and 46 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN and further in view of HAFFNER.

Claim 47 is newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN and further in view of

TROUNSTINE.

Claims 48 and 49 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN and further in view of Wu, U.S. Patent No. 5,422,172 (hereafter "WU").

Claims 50-52 and 54 are newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of TROUNSTINE and further in view of MORMAN.

Claim 53 is newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN and further in view of HAFFNER.

Claim 55 is newly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN and further in view of WU.

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

Response to Rejection of Claims 30 to 39 under 35 U.S.C. § 103(a)

Independent claim 30 and dependent claims 31, 32 and 39 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of TROUNSTINE. The rejection essentially alleges that MURAYAMA discloses the elements recited in independent claim 30 with the exception of the textile sheet being macroembossed and the

polymer film being microembossed. In this regard, the rejection asserts that MCFARREN teaches "that it is old and well-known in the art to macroemboss a laminate of a textile sheet and a polymer film, ... wherein both the textile sheet and the polymer film of the laminate are macroembossed (see col. 1, lines 40-53) for the purpose of providing a strong and flexible laminate with good drape and a soft hand" and that TROUNSTINE teaches "that it is old and well-known in the art to microemboss a polymer film, particularly of a polyolefin type, ... for the purpose of giving the visual appearance of a plain woven taffeta cloth without the shiny surface effect heretofore usually experienced in known embossed films". The rejection further alleges that it would have been obvious to one of ordinary skill in the art "to have modified the laminate in Murayama et al. to have the textile sheet macroembossed as well as the polymer film as suggested by McFarren in order to provide a strong and flexible laminate with good drape and a soft hand" and that it would also have been obvious to one of ordinary skill in the art "to have modified the polymer film in Murayama et al. to be microembossed as suggested by Trounstine et al. in order to give the visual appearance of a plain woven taffeta fabric without a shiny surface effect".

Applicants respectfully traverse this rejection. Specifically, Applicants are unable to find in MCFARREN an indication that the woven or nonwoven to be laminated to the embossed polymer film is (or advantageously should be) embossed, let alone macroembossed. The passage of MCFARREN relied on by the Examiner in this regard, i.e., col. 1, lines 40-53 merely states (emphasis added):

> Now in accordance with this invention, these objectives and others have been achieved by bonding the fibers in nonwovens and bonding fabrics to form laminates by the use of certain specific oriented thermoplastic films having an overall melt embossed pattern. The term "overall melt embossed pattern" means that the film has a repeating pattern of thickened areas formed during a period when the thermoplastic film is in the molten state. In order to obtain air-pervious products having a soft hand and good drape properties, the melt embossed pattern

> must follow certain criteria. The thin sections of the film must be less than about 2 mils, most preferably less than about 0.6 mil. The thick sections of the embossed film must be at least about 6 mils, most preferably at least about 8 mils.

The above passage does not mention any embossing of the nonwoven at all, and neither do any other passages of MCFARREN provide any disclosure with respect to an embossed (non)woven. MCFARREN also fails to suggest that it might be advantageous to (macro)emboss a (non)woven.

In the Examples of MCFARREN an embossed polymer sheet is either sandwiched between two similar size pieces of woven cotton sheeting (Example 1) or acetate tricot (Examples 2 and 3) or is laminated under heat and pressure to a similar size piece of loose sisal-garnet web to bond the nonwoven (Example 4). None of these Examples mentions any embossing of the material to be laminated with the polymer film, let alone a type of embossing that is different from that of the polymer film (i.e., macroembossing vs. microembossing). Further, in the only Example of MCFARREN in which the polymer film is not sandwiched between two pieces of (non)woven, i.e., Example 4, the polymer film appears to be macroembossed, i.e., not microembossed as recited in present claim 30.

TROUNSTINE does not cure the deficiencies of MURAYAMA and MCFARREN in this regard. In fact, TROUNSTINE does not appear to describe any material that may optionally be laminated to the embossed plastic film described therein. Further, TROUNSTINE makes it clear that the size (height) of the bosses of the polymer film depends on the thickness of the film to be embossed (see, e.g., col. 4, lines 66-75) and that the primary purpose of embossing the film is to impart edge-curl resistance under machine stress (see, e.g., abstract, claim 1 and col. 2, lines 2-13), i.e., a problem which would appear to be of no particular concern if the film were to be laminated to a substrate.

Applicants submit that for at least all of the foregoing reasons, MURAYAMA in view of MCFARREN and in view of TROUNSTINE does not render obvious the subject matter of independent claim 30 (and claims 31-39 dependent therefrom), wherefore the rejection of claims 30-39 under 35 U.S.C. § 103(a) is unwarranted and should be withdrawn, which action is respectfully requested.

Regarding dependent claim 36 Applicants note that the Examiner appears to rely, *inter alia*, on col. 9, lines 5-7 of HAFFNER (see page 6, second full paragraph of the present Office Action). It is pointed out that this passage of HAFFNER refers to the breathable intermediate layer 16 of the breathable barrier laminate 10, i.e., not to the outer base layer 12 thereof. Apparently, the outer base layer 12 is much more comparable to the polymer film of the laminate of present claim 36 than the intermediate film 16. In this regard, it is pointed out that HAFFNER does not appear to teach or suggest the feature recited in present claim 36 in the context of the outer base layer and thereby fails to render obvious the subject matter thereof.

Regarding dependent claim 39 Applicants additionally note that it is evident that in the absence of any macroembossed textile sheet or other woven or nonwoven material (see above), a macroembossed effect cannot be transferred to a polymer film, whether it is (micro)embossed or not. This is yet another reason why the subject matter of claim 39 is not rendered obvious by any of the documents cited in the present Office Action.

In view of the clear facts set forth above Applicants refrain from commenting on the additional allegations regarding dependent claims 31-39 set forth in the present Office Action. It is pointed out, however, that Applicants' silence in this regard is by no means to be construed as an admission that these additional allegations are of any merit and in particular, that there is any

motivation to combine the teachings of the various documents relied on by the Examiner in this regard.

Response to Rejection of Claims 40-49 under 35 U.S.C. § 103(a)

Independent claim 40 and dependent claims 41, 43 and 44 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of MORMAN. The rejection essentially alleges that MURAYAMA discloses all of the elements recited in independent claim 40 with the exception of the textile sheet being macroembossed and the thermoplastic polyolefin having the melt index and density recited in claim 40 and including a copolymer of ethylene and a C_4-C_{10} α-olefin. In this regard, the rejection again alleges that MCFARREN discloses a laminate wherein both the textile sheet and the polymer film thereof are macroembossed. The rejection further alleges that MORMAN teaches that it is well known in the art to have a polymer film of an elastic laminate comprising a thermoplastic polyolefin as recited in present claim 40 for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties.

This rejection is respectfully traversed as well. As pointed out above with respect to the rejection of independent claim 30, MCFARREN neither teaches nor suggests an embossed, let alone a macroembossed, textile sheet for lamination to an embossed polymer film. MORMAN does not cure the deficiencies of MURAYAMA and MCFARREN in this regard. In fact MORMAN does not appear to mention embossing of a material to be laminated to an (embossed) polymer film at all.

For the above reasons alone, the rejection of claim 40 and the claims dependent therefrom is without merit. In view thereof, withdrawal of the rejection of claim 40 and claims 41-49 dependent

therefrom under 35 U.S.C. § 103(a) is respectfully requested.

Regarding dependent claim 42 Applicants additionally note that the Examiner appears to rely, *inter alia*, on col. 9, lines 5-7 of HAFFNER (see page 10, second full paragraph of the present Office Action). It is pointed out that this passage of HAFFNER refers to the breathable intermediate layer 16 of the breathable barrier laminate 10, i.e., not to the outer base layer 12 thereof. Apparently, the outer base layer 12 is much more comparable to the polymer film of the laminate of present claim 42 than the intermediate film 16. In this regard, it is pointed out that HAFFNER does not appear to teach or suggest the feature recited in present claim 42 in the context of the outer base layer and thereby fails to render obvious the subject matter thereof.

Regarding dependent claim 47 Applicants additionally note that it is evident that in the absence of any macroembossed textile sheet (see above), a macroembossed effect cannot be transferred to a polymer film, whether it is (micro)embossed or not. This is yet another reason why the subject matter of claim 47 is not rendered obvious by any of the documents cited in the present Office Action.

Regarding dependent claim 49 Applicants note that at page 12, third paragraph, of the present Office Action the Examiner concedes that WU (or any of the other documents cited in the present Office Action) fails to teach a laminate showing no more than 10 % deformation in either the transverse direction or longitudinal direction after elongation by 100 % of its original length. In this regard, the Examiner takes the position that "the permanent deformation would be readily determined through routine experimentation by one of ordinary skill in the art depending on the desired end results".

Applicants point out that it is apparent that for any use of an elastic laminate it is desirable

that the permanent deformation after an elongation of the laminate is as low as possible, i.e., ideally 0 %. Accordingly, it does not even take routine experimentation to determine what the best permanent deformation for a given use of a laminate would be. Rather, the problem is to provide a material (elastic laminate) with a permanent deformation that is as low as possible. This is clearly not a matter of routine experimentation but requires inventive skill, as evidenced, for example, by the Examples of WU.

Specifically, as can be taken from the results shown in Table 7 of WU relied on by the Examiner, the permanent deformation after a 100 % elongation of the laminate of Example VIII of WU is significantly higher than 10 %, i.e., 26 % in machine direction and 30 % in cross direction. Moreover, none of the other laminates described in the Examples of WU (which include a variety of materials as components of the laminates) shows a permanent deformation after 100 % elongation which is not higher than 10 %, either.

This is yet another reason why the subject matter of present claim 49 is not rendered obvious by any of the documents cited in the present Office Action.

In view of the clear facts set forth above Applicants refrain from commenting on the additional allegations regarding dependent claims 41-49 set forth in the present Office Action. It is pointed out, however, that Applicants' silence in this regard is by no means to be construed as an admission that these additional allegations are of any merit and in particular, that there is any motivation to combine the teachings of the various documents relied on by the Examiner in this regard.

Response to Rejection of Claims 50-55 under 35 U.S.C. § 103(a)

Independent claim 50 and dependent claims 51, 52 and 54 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MURAYAMA in view of MCFARREN and in view of TROUNSTINE and in view of MORMAN. The rejection essentially alleges that MURAYAMA discloses the elements recited in independent claim 50 with the exception of the textile sheet being macroembossed and the polymer film being microembossed and the thermoplastic polyolefin having the melt index and density recited in claim 50 and including a copolymer of ethylene and a C_4-C_{10} α-olefin. In this regard, the rejection relies on MCFARREN, TROUNSTINE and MORMAN in essentially the same way as in the case of independent claims 30 and 40.

This rejection is respectfully traversed as well. Specifically, as set forth above, none of MCFARREN, TROUNSTINE and MORMAN teaches or suggests that a web material that is to be laminated to a (micro)embossed polymer film should be (macro)embossed. For this reason alone, the rejection of claim 50 and the claims dependent therefrom is without merit. In view thereof, withdrawal of the rejection of claim 50 and dependent claims 51-55 under 35 U.S.C. § 103(a) is respectfully requested as well.

Regarding dependent claim 53 Applicants additionally note that the Examiner appears to rely, *inter alia*, on col. 9, lines 5-7 of HAFFNER (see page 15, second full paragraph from the bottom of the present Office Action). It is pointed out that this passage of HAFFNER refers to the breathable intermediate layer 16 of the breathable barrier laminate 10, i.e., not to the outer base layer 12 thereof. Apparently, the outer base layer 12 is much more comparable to the polymer film of the laminate of present claim 53 than the intermediate film 16. In this regard, it is pointed out that HAFFNER does not appear to teach or suggest the feature recited in present claim 53 in the context

of the outer base layer and thereby fails to render obvious the subject matter thereof.

With respect to dependent claim 54 Applicants additionally note that it is evident that in the absence of any macroembossed material (see above), a macroembossed effect cannot be transferred to a polymer film, whether it is (micro)embossed or not. This is yet another reason why the subject matter of claim 54 is not rendered obvious by any of the documents cited in the present Office Action.

In view of the clear facts set forth above Applicants refrain from commenting on the additional allegations regarding dependent claims 51-55 set forth in the present Office Action. It is pointed out, however, that Applicants' silence in this regard is by no means to be construed as an admission that these additional allegations are of any merit and in particular, that there is any motivation to combine the teachings of the various documents relied on by the Examiner in this regard.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is again respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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